



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 434-01
20 February 2001

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting, in effect, that his record be corrected to show that he is eligible for reserve retirement and that he transferred to the Retired Reserve vice being discharged on 29 August 1995.

2. The Board, consisting of Mr. Milner, Mr. Neushafer and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 13 February 2001 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Naval Reserve for six years on 30 August 1987 in the rate of SK1 (E-6) and subsequently extended that enlistment for two more years. At the time of reenlistment he had completed 19 years of qualifying service for reserve retirement. He transferred to the Individual Ready Reserve (IRR) on 8 September 1987. Petitioner did not participate for the next six years and did not earn any additional qualifying years.

d. Petitioner apparently discovered that he did not have 20 qualifying years because he began to submit correspondence courses. In the anniversary year beginning on 30 August 1993 he submitted correspondence courses worth 29 points which, when added to the 15 membership points, gives him 44 retirement points in that anniversary year. On 21 July 1994 Petitioner requested transfer to the Retired Reserve effective 1 October 1994. However, since he only had 44 retirement points in the anniversary year ending 29 August 1994 he still only had 19 years of qualifying service for reserve retirement. On 30 August 1994 he was credited with a correspondence course worth five retirement points. On 8 December 1994, the Naval Reserve Personnel Center informed him that he was not eligible for transfer to the Retired Reserve because had only completed 19 years, 1 month and 2 days of qualifying service for reserve retirement. In 1995 Petitioner was credited with two additional correspondence courses totaling seven retirement points. He was honorably discharged at the expiration of his enlistment, as extended, on 29 August 1995.

e. Petitioner states that because of computer problems, the five retirement points from a correspondence course on 30 August 1994 were not credited in a timely manner. If those points had been credited one day earlier, the five retirement points would have been included in the previous anniversary year. As indicated in the foregoing, in the anniversary year ending 29 August 1994 he now has 44 retirement points. If those five points are added, he will have 49 points, still not enough for a qualifying year. Petitioner states that he attempted to reenlist to earn 20 qualifying years but has been denied reenlistment.

f. Concerning his request to transfer to the Retired Reserve, the Board is aware that the Navy Personnel Command has routinely recommended corrective action in those cases where an individual was qualified for reserve retirement and there is no explanation in the record why an individual was discharged and not retired.

g. The Board is also aware that the Uniform Retirement Date Act, 5 U.S.C. 8301 requires the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board believes that Petitioner submitted the five point correspondence course now credited on 30 August 1994 with

the expectation that it would be credited on 29 August 1994 or before and those five points should now be credited in the anniversary year ending 29 August 1994. However, as indicated, he still needs one additional retirement point to make that year qualifying. Since Petitioner is only one point short and it was clearly his intent to qualify for retirement, the Board concludes that one retirement point should be transferred from the anniversary year ending 29 August 1995 into the anniversary year ending 29 August 1994. With these corrections, Petitioner will have 20 qualifying years for retirement.

Since Petitioner was in good standing in the Naval Reserve and would have been retired if he had 20 qualifying years, the Board concludes that the record should be corrected to show that he transferred to the Retired Reserve in the rate of SK1. Given the requirements of the Uniform Retirement Date Act the record should show that he transferred to the Retired Reserve on 1 August 1995 vice being discharged on 29 August 1995.

Finally, the Board concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected by transferring six retirement points from the anniversary year ending 29 August 1995 to the anniversary year ending 24 August 1994.
- b. That Petitioner's naval record be further corrected to show that he transferred to the Retired Reserve in the rate of SK1 on 1 August 1995 vice being discharged on 29 August 1995.
- c. That this Report of Proceedings be filed in Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby

announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


FR W. DEAN PFEIFFER
Executive Director